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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,122	01/24/2001	Thomas J. Walczak	CS10560	5562

7590 09/09/2004

Motorola, Inc.  
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EXAMINER

LE, DUY K

ART UNIT PAPER NUMBER

2685

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/769,122	<b>Applicant(s)</b> WALCZAK ET AL.	
	<b>Examiner</b> Duy K Le	<b>Art Unit</b> 2685	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

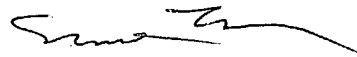
Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Regarding independent claims 1 and 12, the Affidavit disclosure under 37 CFR 1.131 described using a history of measurements (previous location fixes or estimates) to determine the accuracy and develop confidence in the present GPS location fix. The claimed invention in claims 1 and 12 is for a method to validate a present non-network (GPS) location fix by comparing it to a present network-based location fix. The claims do not mention validating present location fixes based on prior location fixes. Thus, the scope of the declaration or affidavit is not commensurate with the scope of the claims. As to the Elliot reference and claims 16 and 20, the Affidavit disclosure under 37 CFR 1.131 described using a history of measurements (previous location fixes or estimates) to estimate the next/current location fix to determine the accuracy and develop confidence in the collected present GPS location fix. The Elliot reference teaches or suggests using a predetermined path (known and determined location fixes, including current and future location fixes) to compare a collected present GPS location fix to monitor a location of a mobile device and ensure that the mobile device does not deviate from the predetermined path. The scope of the declaration or affidavit is not commensurate with the scope of the Elliot reference even though the Elliot reference can be interpreted, as cited by examiner in Office Action, to read on claims 16 and 20. Since the scope of the affidavit and the Elliot reference are different and the applicant acknowledged in his after-final argument that "the scope of the Elliot reference is not as issue", the Affidavit is ineffective to antedate the Elliot reference. As for claims 21-26, the applicant's after-final argument remained the same as his argument after the non-final rejection office action and had been responded in the final rejection office action by examiner.

  
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